

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,
et al.,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**OPPOSITION OF PSA CREDITORS TO CREDIT UNIONS'
MOTION FOR STAY PENDING APPEAL**

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17- BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

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To the Honorable United States District Court Judge Laura Taylor Swain:

The Ad Hoc Group of Constitutional Debtholders (the “Constitutional Debt Group”),² the Lawful Constitutional Debt Coalition (the “LCDC”),³ the QTCB Noteholder Group (the “QTCB Group”),⁴ the Ad Hoc Group of General Obligation Bondholders (the “GO Group”),⁵ Assured Guaranty Corp. and Assured Guaranty Municipal Corp. (together, “Assured”), National Public Finance Guarantee Corporation (“National”), Financial Guaranty Insurance Company (“FGIC”), and Ambac Assurance Corporation (“Ambac”) (collectively the “PSA Creditors”)⁶ respectfully submit this joint opposition (the “Opposition”) to the *Credit Union’s Joint Motion for Stay Pending Appeal of Order and Judgment Confirming Modified Eighth Amended Title III Plan of Adjustment of the Commonwealth of Puerto Rico, et. als.* (the “Motion”) [Dkt No. 20035] filed by Cooperativa de Ahorro y Crédito Abraham Rosa, Cooperativa de Ahorro y Crédito de Ciales, Cooperativa de Ahorro y Crédito de Rincón, Cooperativa de Ahorro y Crédito Vega Alta, Cooperativa de Ahorro y Crédito Dr. Manuel Zeno Gandía, and Cooperativa de Ahorro y Crédito de Juana Díaz (collectively, the “Credit Unions”). In support of the Opposition, the PSA Creditors rely on and incorporate by reference the *Opposition of PSA Creditors to Teachers’ Associations’ Motion For Stay Pending Appeal* (the “Opposition to Teachers’ Associations’ Motion”)⁷ [Dkt. No. 20081] and

² The members of the Constitutional Debt Group and their respective holdings are set forth in the *Twelfth Supplemental Verified Statement of the Ad Hoc Group of Constitutional Debtholders Pursuant to Federal Rule of Bankruptcy Procedure 2019* [Dkt No. 18491].

³ The members of the LCDC and their respective holdings are set forth in the *Thirteenth Supplemental Verified Statement of the Lawful Constitutional Debt Coalition Pursuant to Federal Rule of Bankruptcy Procedure 2019* [Dkt. No. 19128].

⁴ The members of the QTCB Group and their respective holdings are set forth in the *Eleventh Supplemental Verified Statement of the QTCB Noteholder Group Pursuant to Bankruptcy Rule 2019* [Dkt. No. 19145].

⁵ The members of the GO Group and their respective holdings are set forth in the *Thirteenth Supplemental Verified Statement of the Ad Hoc Group of General Obligation Bondholders Pursuant to Bankruptcy Rule 2019* [Dkt. No. 17397].

⁶ The PSA Creditors do not assume any fiduciary or other duties to each other or to any other entity or individual.

⁷ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the *Opposition to Teachers’ Associations’ Motion*.

the declaration of Christine Song (the “Song Declaration”) [Dkt No. 20081-1] attached thereto, which are attached as **Exhibits A** and **B** to this Opposition, and respectfully state as follows:

ARGUMENT

1. The Credit Unions’ extraordinary request to delay the Commonwealth of Puerto Rico’s historic emergence from bankruptcy should be denied. The burden to obtain a stay pending appeal is a heavy one. The movant “must make the following four showings to secure a stay: (1) a strong showing that it is likely to succeed on the merits; (2) a showing that unless a stay is granted, it will suffer irreparable injury; (3) a showing that no substantial harm will come to the other interested parties; and (4) a showing that a stay will do no harm to the public interest.” *Rio Grande Cmty. Health Ctr., Inc. v. Armendáriz*, 792 F.3d 229, 231 (1st Cir. 2015) (internal quotation marks and alterations omitted). A stay pending appeal is an “extraordinary” remedy. *Citizens for Resp. & Ethics in Wash. v. FEC*, 904 F.3d 1014, 1017 (D.C. Cir. 2018) (per curiam). It “is not a matter of right, even if irreparable injury might otherwise result.” *Virginian Ry. Co. v. United States*, 272 U.S. 658, 672 (1926).

2. The Credit Unions have not come close to making the required showings. For the reasons described in the opposition of the FOMB, the Credit Unions’ appeal is unlikely to succeed on the merits. That is grounds enough to deny the Credit Unions’ Motion. But the Motion should also be denied because a stay would inflict enormous and irreparable harm on the Commonwealth and its non-moving creditors and would jeopardize the public’s interest in the Commonwealth’s emergence from bankruptcy. In their Motion, the Credit Unions ignore the substantial financial impact on the PSA Creditors, the Commonwealth and other stakeholders if the Effective Date of the Plan (and thus the Plan distributions) were stayed pending appeal. Among other things, they fail to acknowledge that any stay would also delay the approved Title VI restructurings of the

Puerto Rico Convention Center District Authority (“CCDA”) and the Puerto Rico Infrastructure Financing Authority (“PRIFA”) from becoming effective, as they are expressly contingent on the Commonwealth Effective Date. *See* Qualifying Modification Pursuant to PROMESA Title VI for the Puerto Rico Convention Center District Authority, *In re P.R. Convention Center Distr. Auth.*, No. 21-01493-LTS (D.P.R. Jan. 20, 22), Dkt. No. 72-1, § 10.1(e) (Commonwealth Effective Date condition precedent to effectiveness of CCDA restructuring); Qualifying Modification Pursuant to PROMESA Title VI for the Puerto Rico Infrastructure Financing Authority, *In re P.R. Infrastructure Financing Auth.*, No. 21-01492-LTS (D.P.R. Jan. 20, 22), Dkt. No. 82-1, § 10.1(e) (Commonwealth Effective Date condition precedent to effectiveness of PRIFA restructuring). A stay of the Commonwealth Plan would prevent the successful restructuring of those instrumentalities and delay distributions of hundreds of millions of dollars under those approved qualifying modifications.

3. Therefore, even if a stay were warranted, the Court should condition any such stay on the posting of a bond of at least \$722 million, which accounts solely for the anticipated harms that a stay would inflict on GO/PBA Creditors. When one takes into account the additional potential harms to the Commonwealth and other stakeholders, the proper amount of appropriate bonds likely exceeds \$1 billion.

4. In support of these points, the PSA Creditors hereby incorporate by reference their Opposition to Teachers’ Associations’ Motion and the Song Declaration attached thereto. *See* Exs. A-B hereto.

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CONCLUSION

The Motion should be denied. In the alternative, this Court should condition any stay on the posting a bond of at least \$722 million.

Dated: February 11, 2022
San Juan, Puerto Rico

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